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**FOR IMMEDIATE RELEASE**

**NEW JERSEY FARM BUREAU WINDS UP PRESENTATIONS TO OFFICE OF ADMINISTRATIVE LAW  
IN DISPUTE WITH DEP OVER HIGHLANDS SEPTIC DENSITY RULES**

**Mercerville, NJ (Jan 16, 2009)** -- New Jersey Farm Bureau, the state's largest farmer organization, today closed out oral presentations before Judge Solomon Metzger at the state Office of Administrative Law in its dispute with the DEP on that agency's basis for its septic density rules. The judge is presiding over an "evidentiary hearing" in which Farm Bureau claims that the DEP manipulated the data to put the most restrictive standards into a "nitrate dilution" model, which in turn created the largest lot sizes possible.

During the week-long hearing, Farm Bureau put on several expert witnesses (geologist, geohydrologist, septic technology) who challenged the scientific credibility of the DEP's rule. In turn, the DEP presented a senior policy person and a hydrologist to explain how/why they did what they did. Each witness was subject to cross-examination. Upon conclusion of the hearings, each side filed a final brief before the judge renders his report, which is due by March 31st.

As expected, DEP relied on its view of the Highlands Act mandate as enabling the stringent standards. Farm Bureau attempted to refute each element of the rule, saying more accurate, less drastic data was available and that the agency cherry-picked its references to reach an extreme, preordained outcome. the Office of Administrative Law (OAL), in its hearing with the DEP disputing Highlands regulations. At issue are DEP "septic density" rules, which prescribe very large (25-acre, 88-acre) lot sizes for a single residential lot in the Highlands Preservation Area. The hearing was ordered by a July 2008 ruling of the Appellate Division of Superior Court, in which the court found "reasonableness" in the challenge brought by the Farm Bureau to the rules and ordered that a hearing be held and the issue examined further.

The Appellate Division remanded the Farm Bureau challenge for an evidentiary hearing instructed to issue findings of fact and conclusions of law. Appellate Judge Skillman wrote: "The Farm Bureau has raised substantial questions regarding the reasonableness of the methodology that the DEP used in establishing the septic density standards... Therefore, Farm Bureau should be afforded the opportunity for an evidentiary hearing to contest the validity of these standards."

Farm Bureau is challenging the septic density standard of no more than one "individual subsurface disposal system" permitted per 88 acres of a forested lot or 25 acres of any lot not containing forest. "The septic density

standards are at the core of the DEP rules, and if kept as adopted, pose the greatest threat to landowner rights and equity in the region,” says Richard Nieuwenhuis, president of the Farm Bureau.

The hearing lasted four days in front of administrative law judge Solomon Metzger in Mercerville, NJ. Farm Bureau is represented at the hearing by the Sterns and Weinroth law firm in Trenton, NJ; Robert Zoller and Chris Torkelson are the attorneys of record. Nieuwenhuis said of the hearing: “We are trying to demonstrate how using available scientific data, with a comprehensive view of the region, would have led the DEP to much different, less restrictive standards and how this agency has needlessly exceeded any comparable precedent in the country.”

Nieuwenhuis summed up the Farm Bureau position this way, “We all want clean water and a healthy environment. But state agency decisions need to be made based on real science and real world application – not worst case scenarios – and never at the total expense of any one segment of the population.”

For further information, contact the New Jersey Farm Bureau, at The Farmhouse, 168 West State Street, Trenton, NJ 08608. Phone 609-393-7163; fax 609-393-7072; email [mail@njfb.org](mailto:mail@njfb.org); website [www.njfb.org](http://www.njfb.org)

The New Jersey Farm Bureau is a non-profit member organization of 14,000+ farmers and farm-related individuals within the Garden State. It is the only organization solely dedicated to representing the grass-roots interests and directives of its members in educating all levels of government and the public on the farm community’s policies and positions. The Farm Bureau also takes a lead in seeking out initiatives, activities and ventures to enhance the profitability of producer members and ensure the viability of agriculture in New Jersey -- *the Garden State for Good Reason -- our farms.*

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